



FILED

12-21-07
10:04 AM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.

Rulemaking 06-04-009
(Filed April 13, 2006)

**ASSIGNED COMMISSIONER'S RULING
MODIFYING THE PHASE 2 SCOPING MEMO
AND UPDATING THE PHASE 2 SCHEDULE**

1. Summary

In the Order Instituting Rulemaking (OIR) initiating this proceeding, the Public Utilities Commission provided that Phase 2 would be used to implement a load-based greenhouse gas (GHG) emissions cap for electricity utilities, as adopted in Decision (D.) 06-02-032 as part of our procurement incentive framework, and also would be used to take steps to incorporate GHG emissions associated with customers' direct use of natural gas into the procurement incentive framework. The Phase 2 scoping memo issued on February 2, 2007 addressed implementation of a load-based GHG emissions program for the electricity sector.

The Public Utilities Commission has modified the scope of Phase 2 through D.07-05-059 and D.07-07-018 amending the OIR. Today's ruling amends the Phase 2 scoping memo to specify the manner in which the natural gas issues raised in the OIR and the issues added by D.07-05-059 and D.07-07-018 will be

considered in Phase 2. This ruling also updates the schedule for Phase 2 to reflect these modifications to the Phase 2 scoping memo and also other events that have transpired since the scoping memo was issued.

2. Initial Phase 2 Scoping Memo

By Assigned Commissioner's Ruling, I issued a scoping memo in Phase 2 on February 2, 2007, addressing implementation of a load-based GHG emissions cap program for the electricity sector. That ruling specified that procedures for consideration in Phase 2 of GHG emissions cap policies for customer use of natural gas would be addressed in a later scoping memo.

With enactment of Assembly Bill (AB) 32, "The California Global Warming Solutions Act of 2006," in September 2006, the emphasis in Phase 2 shifted to support implementation of the new statute. The California Air Resources Board (ARB) has the lead role in implementing the provisions of AB 32, in coordination with other agencies, including the Public Utilities Commission. Because of the need for "a single, unified set of rules for a GHG cap and a single market for GHG emissions credits in California," the Phase 2 scoping memo provided that "Phase 2 should focus on development of general guidelines for a load-based emissions cap that could be applied ... to all electricity sector entities that serve end-use customers in California,"¹ including both investor-owned utilities (IOUs) that the Public Utilities Commission regulates and also publicly owned utilities (POUs).

Phase 2 is being undertaken in collaboration with the California Energy Commission (Energy Commission), as detailed in the Phase 2 scoping memo.

¹ Phase 2 scoping memo, *mimeo.* at 8.

This proceeding is being used to develop joint recommendations to ARB regarding GHG emissions policies for the electricity and natural gas sectors in California.

The Phase 2 scoping memo noted that the policies in D.06-02-032 were adopted prior to passage of AB 32. It placed parties on notice that, in the course of Phase 2, the Public Utilities Commission may adopt policies that may modify portions of D.06-02-032 as a result of AB 32, subsequent actions by ARB, or the record developed in the course of this proceeding.²

The Phase 2 scoping memo provided that, in developing guidelines for a load-based GHG emissions cap for the electricity sector, Phase 2 would address the following issue areas:

1. Reporting requirements,
2. Development of 1990 electricity sector baseline and current entity-specific GHG emission levels,
3. GHG emissions reduction measures and annual emissions caps,
4. Flexible compliance mechanisms,
5. Entity-specific allowance allocation, and
6. Modeling to support policy design and evaluation of costs.

The scoping memo described the types of details regarding each of these issues that Phase 2 should address for the electricity sector, subject to refinement during the course of the proceeding. The ruling adopting the Phase 2 scoping memo also established a schedule for Phase 2, subject to later modification by the assigned Administrative Law Judges (ALJs).

² *Id.*, *mimeo.* at 10 - 11.

Today's ruling modifies, but does not supersede, the Phase 2 scoping memo. Those portions of the Phase 2 scoping memo not explicitly modified by today's ruling remain in effect.

3. D.07-05-059 and D.07-07-018 Amending the OIR

Following the enactment of AB 32, D.07-05-059 specified that Phase 2 should be used for development of guidelines for a load-based GHG emissions cap for the electricity sector and recommendations to ARB regarding a statewide GHG emissions limit as it pertains to the electricity and natural gas sectors. To that end, D.07-05-059 also expanded the natural gas inquiry in Phase 2 to address GHG emissions associated with the transmission, storage, and distribution of natural gas in California, in addition to the use of natural gas by non-electricity generator end-use customers as originally contemplated in the OIR. The list of respondents to this proceeding was amended to include all investor-owned gas utilities, including those that provide wholesale or retail sales, distribution, transmission, and/or storage of natural gas.

D.07-07-018 amended the OIR further to provide for consideration in Phase 2 of issues raised by and alternatives considered in the June 30, 2007 Market Advisory Committee report entitled, "Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California," to the extent they were not already within the scope of Phase 2. Thus, D.07-07-018 provided for consideration of alternatives to a load-based cap for the electricity sector.

The Phase 2 scoping memo specified that the proceeding will address the appropriate treatment of GHG emissions related to distributed generation resources. D.07-05-059 identified further that Phase 2 will consider the treatment of both distributed generation and combined heat and power (cogeneration)

facilities in the development of GHG emission policies for the electricity and natural gas sectors.

4. Amendments to the Phase 2 Scoping Memo

Consistent with the OIR as modified by D.07-05-059 and D.07-07-018, Phase 2 will be used for development of guidelines and recommendations to ARB regarding a statewide GHG emissions limit as it pertains to the electricity and natural gas sectors. Among other issues, Phase 2 will consider the issues raised by and alternatives considered in the Market Advisory Committee report. As specified in D.07-05-059, while a primary outcome of Phase 2 will be the submission of guidelines for ARB's consideration, the Public Utilities Commission may also consider and adopt regulations in Phase 2 to address GHG emissions of entities subject to its regulation. The following subsections provide more detail regarding the issues to be addressed in Phase 2.

4.1. Type and Point of Regulation for the Electricity Sector

In D.06-02-032, the Public Utilities Commission found that a load-based GHG emissions cap should be implemented in the electricity sector. In such an approach, the point of regulation would be the retail providers. The Public Utilities Commission did not specify the type of GHG regulation that would be employed to ensure that the emissions cap would be achieved. In particular, D.06-02-032 did not determine the type of flexible compliance options that should be implemented. It did, however, state an initial preference for the administrative allocation, rather than auctioning, of emission allowances.

In its report to ARB, the Market Advisor Committee considered design of a market-based program to reduce GHG emissions, and described various options for the scope of a cap-and-trade program. For the electricity sector, the

Market Advisory Committee recommended a “first seller” approach, with the entity that first sells electricity in the state responsible for meeting the compliance obligation. Thus, the first seller, or deliverer,³ would be the point of regulation. The Market Advisory Committee report recommended that some share of emission allowances be allocated free of charge initially, while the remaining allowances would be auctioned as a key part of allowance allocation. The percentage of allowances auctioned would then increase over time.

Regardless of whether a market-based system for GHG regulation is adopted, I expect that regulatory and other strategies will continue to be employed to reduce GHG emissions in the electricity and natural gas sectors in California. In particular, I expect that currently mandated programs such as energy efficiency programs, renewable portfolio standards, and building and appliance efficiency standards will continue. Such programs also may be expanded if such expansion is found to be desirable relative to other emission reduction strategies. Additional emission-reducing mandates could also be imposed. For example, efforts could be undertaken to expand the emission performance standard to apply to short-term contracts and/or non-baseload power. In addition, ARB could impose other emission reduction measures, e.g., on generators in California. Consideration of such strategies is already within the scope of Phase 2.

By an ALJ ruling dated July 19, 2007, parties were asked to submit comments and legal briefs in this proceeding on issues raised by the Market

³ An alternative conceptualization of the first-seller approach is that the emission compliance obligation rests with the entity that first delivers electricity to the California grid. Thus, here we use the term "deliverer/first seller."

Advisory Committee report. On August 21, 2007, the Public Utilities Commission and the Energy Commission held a joint en banc hearing addressing the type and point of GHG regulation in the electricity sector, including deliverer/first seller and load-based cap-and-trade approaches.

An ALJ ruling issued on November 9, 2007 provided parties an opportunity to file additional comments on issues regarding the type and point of regulation for the electricity sector. This ruling sought responses to specific questions regarding several alternatives. It also asked parties to address the principles or objectives that the two Commissions should use and any other factors that should be considered in determining the type of GHG regulation for the electricity sector. The ruling also allowed parties to provide any additional information that they believe should be in the record regarding the type and point of regulation.

As regional and/or national solutions are developed to reduce GHG emissions, California may consider whether to modify its GHG regulation to mesh with other GHG approaches developed elsewhere. The November 9, 2007 ALJ ruling also asked parties to comment on the extent to which each alternative being considered in California would mesh with or could be modified to mesh with potential regional and/or national approaches.

4.2. Natural Gas Issues

As the OIR provided, Phase 2 will consider steps to ensure that GHG emissions associated with customers' direct use of natural gas, i.e., for purposes other than electricity generation, are incorporated into a procurement incentive

framework, as contemplated in D.06-02-032.⁴ Consistent with D.07-05-059, the natural gas inquiry in Phase 2 will also consider GHG emissions due to the transmission, storage, and distribution of natural gas delivered to all end-user customers in California, including natural gas delivered for use in electricity generation. D.07-05-059 specified as follows:

Most end users in California are served... via a single, integrated natural gas market, which includes [IOUs], POUs, and interstate pipeline companies selling directly to end-use customers. However, some consumers receive natural gas through other means, for example, proprietary natural gas pipeline operations or their own facilities and natural gas supplies. Phase 2 will develop guidelines and recommendations, to the extent practicable, regarding GHG emissions in the natural gas sector that [ARB] could apply both to natural gas IOUs, which we regulate, and to natural gas entities that we do not regulate.⁵

Consistent with the OIR and D.07-05-059, Phase 2 will address the regulation of GHG emissions in the natural gas sector. As noted in D.07-05-059, many, if not all, of the six issues identified in the Phase 2 scoping memo related to development of guidelines for an emissions cap for the electricity sector need to be addressed when considering GHG emissions policies for the natural gas sector.⁶

The Market Advisory Committee report notes that GHG emissions due to natural gas usage could be regulated through direct coverage at the point of combustion for medium and large GHG-emitting facilities such as electric power

⁴ GHG emissions from customer use of natural gas for electricity generation is being considered as part of the electricity sector inquiry in Phase 2.

⁵ D.07-05-059, *mimeo.* at 6.

⁶ *Id.*, *mimeo.* at 7-8.

plants and energy-intensive industries such as refining and cement production. It also notes that upstream coverage could be provided by making distributors of natural gas to small industrial, commercial, and residential users responsible for emissions related to those uses. The Market Advisory Committee describes an alternative upstream approach in which natural gas processors (for gas produced in California) and interstate pipeline endpoints (for imported gas) would be the point of regulation.⁷ The Market Advisory Committee prefers that a cap-and-trade program initially cover large industrial emitters and the electricity sector, and that the program be expanded over time to cover other sectors as practicable.⁸

By ALJ ruling dated July 12, 2007, parties were asked to file comments on preliminary recommendations of the Public Utilities Commission staff regarding the regulatory treatment of GHG emissions in the natural gas sector. The Staff paper attached to the ALJ ruling identified and discussed various policy issues associated with developing a regulatory regime to control GHG emissions in the natural gas sector. The Staff preliminary recommendations include the following:

[Natural gas-related emissions] should be regulated at the utility level (public and investor-owned) to capture emissions associated with the combustion of natural gas by small end users such as residential and commercial customers. All emissions from the transmission, distribution and storage of natural gas, including emissions from California utilities, private pipelines, and interstate pipelines operating within California, would be regulated. Staff recommends that large end users be responsible for their own

⁷ Market Advisory Committee report, at 28 – 31.

⁸ *Id.*, at 38.

emissions and that emissions from natural gas vehicles be considered by ARB as part of the transportation sector. Emissions resulting from the generation of electricity would be treated as part of electric sector emissions.⁹

Issues related to the treatment of GHG emissions in the natural gas sector addressed in the Staff paper and in the Market Advisory Committee report are within the scope of Phase 2.

Following the receipt of prehearing conference statements including comments on the Staff paper, a prehearing conference was held on August 2, 2007 to address the manner in which regulation of GHG emissions in the natural gas sector will be considered in this proceeding.

At the prehearing conference and through their comments, parties expressed various opinions about the appropriate scope and form of recommendations that the Public Utilities Commission and the Energy Commission may make to ARB. The parties' comments centered around four concerns:

1. Should the GHG emissions arising from the combustion of natural gas by non-electricity end-use customers be included in a natural gas sector cap?
2. Are there any end-use natural gas customers that should not be included in such a cap?
3. What types of mechanisms should be used in the natural gas sector to help ensure that AB 32's goals are met, i.e., mandatory regulatory programs, market-based mechanisms, or a combination?

⁹ Preliminary Staff Recommendations for Treatment of Natural Gas Sector Greenhouse Gas Emissions, Attachment A to Administrative Law Judges' Ruling Regarding Comments on Staff Natural Gas Proposal and Notice of Prehearing Conference, July 12, 2007, at 2.

4. Should natural gas utilities that serve end-use customers be responsible for the customers' combustion-related emissions?

These concerns are within the scope of the natural gas inquiry in Phase 2.

On November 6, 2007, Public Utilities Commission Staff issued a data request to natural gas entities seeking information regarding natural gas sales and GHG emissions for a variety of customer types and sizes. This information will be used to assess current emission levels and inform other aspects of the natural gas portion of the proceeding. By ALJ ruling dated November 28, 2007, parties were asked to file comments on the approach to GHG regulation that would be appropriate for the natural gas sector. Parties were also asked to file comments on any interactions, fuel-switching incentives, inconsistencies, or other concerns that should be considered in development of recommendations regarding the types of approaches for the electricity and natural gas sectors.

4.3. Procedure for Considering Phase 2 Issues

Because there are many issues in common between the electricity and natural gas sectors, these inquiries in Phase 2 will be similar in many respects. Similar to a discussion in the Phase 2 Scoping Memo, a description follows of the types of details regarding each of the issue areas that this proceeding will address. This description is not meant to be exhaustive, and may be refined during the course of the proceeding. Because the issues are interrelated, individual topics will not be examined in isolation.

4.3.1. Type and Point of Regulation

This portion of the proceeding will consider alternative general approaches for regulating GHG emissions in the electricity and natural gas sectors. The possible approaches identified in the Market Advisory Committee report and the November 9, 2007 ALJ ruling, and other alternatives that may be

developed in the record, will be considered for the electricity sector. The natural gas inquiry will consider the Staff's preliminary recommendations and other approaches to GHG regulation that may be applied to the portions of the natural gas sector not regulated as point sources by ARB.

4.3.2. Reporting Requirements

ARB is taking the lead on developing reporting protocols and requirements for all entities covered by AB 32, including the electricity and natural gas sectors. In September 2007, the Public Utilities Commission and the Energy Commission submitted recommendations to ARB regarding reporting requirements for the electricity sector. Consistent with AB 32, ARB approved mandatory reporting regulations on December 6, 2007 for many sectors, including the electricity sector. ARB has indicated that protocols for some sectors, including the natural gas sector, will be issued later. While Staff will continue to coordinate closely with ARB on development of reporting requirements, Phase 2 will develop recommendations on reporting requirements for the natural gas sector only if reporting issues arise that are unique to the sector.

4.3.3. Baseline Development

ARB approved the baseline statewide 1990 GHG emissions level on December 6, 2007. While Phase 2 has monitored ARB efforts in this regard, no concerns related to 1990 emissions in the electricity and natural gas sectors were identified that would have warranted development of recommendations by the two Commissions to ARB. As a result, Phase 2 did not develop recommendations regarding the 1990 GHG emissions baseline.

Phase 2 will develop current GHG emissions levels for relevant electricity and natural gas entities by examining individual entities' recent historical

emissions profiles. The current emissions levels will be considered, along with other factors, in developing recommendations regarding each entity's emission caps and/or allowances.

4.3.4. Emission Reduction Measures and Annual Emissions Caps

This portion of the proceeding will examine the level and costs of emission reductions that can be achieved by the electricity and natural gas sectors before 2020 (the target date set by AB 32). Both mandatory programs and market-based measures to achieve emissions reductions will be examined including, but not limited to, energy efficiency, investment in renewable resources including bio-gas, reductions of fugitive emissions, and low-emission vehicle policies and programs. In addition, Phase 2 will address the rate at which these types of reductions can be achieved, which will inform recommendations for annual emissions caps for the electricity and natural gas sectors. While identified in the Phase 2 scoping memo as a separate issue area, this inquiry is being merged with the modeling effort described below.

4.3.5. Flexible Compliance Mechanisms

This portion of the proceeding will examine possible flexible compliance mechanisms for the electricity and natural gas sectors including, but not limited to, multi-year compliance periods, early action credits, banking provisions, in-state and out-of-state trading options, and emission offsets. In addition, in this portion, Phase 2 will examine appropriate performance incentives, including the concept of allowance sale incentives, and a penalty mechanism.

4.3.6. Entity-Specific Caps and Allowance Allocation

This portion of the proceeding will address how to distribute annual emissions allowances under a cap-and-trade mechanism to individual entities, to the extent appropriate. This inquiry will build on the examination of individual

entities' current GHG emissions levels and the assessment of feasible annual emissions caps for the electricity and natural gas sectors.

In addition, Phase 2 will examine an appropriate process for administering the distribution of allowances, most likely through ARB.

4.3.7. Modeling to Support Policy Design and Analysis of Costs

The Public Utilities Commission has hired a consultant to conduct detailed modeling of the electricity sector impacts of potential GHG emissions cap scenarios. The modeling analysis will take into account the policy options developed in other portions of the proceeding in order to analyze various options for cap design and implementation for the electricity sector. The consultants will conduct a public input process as the model is developed, and public workshops to explain model results to the parties. The consultants will consider the natural gas sector in their modeling process. However, separate, detailed modeling of the natural gas sector does not appear to be needed to develop recommendations for the natural gas sector, and will not be undertaken. Instead, this portion of the proceeding will focus on evaluating the effectiveness of available emission reduction measures for the natural gas sector.

5. Phase 2 Schedule

The Assigned Commissioner's Ruling containing the Phase 2 scoping memo also adopted a schedule for Phase 2. That schedule was designed to dovetail with the schedule that ARB anticipated for its AB 32-related activities. I recognized at that time that the schedule may require modification due to the complex nature of the proceeding, and authorized the assigned ALJs to add detail and make modifications to the schedule to reflect a growing understanding of the issues as Phase 2 proceeds.

Events have transpired, including the modifications to scope adopted in D.07-05-059 and D.07-07-018, such that the schedule adopted in the February 2, 2007 ruling is no longer valid. While Staff and the ALJs have informed parties of schedule modifications as they have occurred, today's ruling revisits the schedule in light of the modifications to the scoping memo and other recent events.

Major events in the Phase 2 schedule, as modified by today's ruling, are contained in the table below.

Schedule for Phase 2 of R.06-04-009

Events that already have taken place:

Type and Point of Regulation	
Symposium on linking GHG cap-and-trade systems, and reporting issues	April 19, 2007
Ruling soliciting comments and legal briefs on issues raised by the Market Advisory Committee report	July 19, 2007
Comments and legal briefs filed	August 6, 2007
Reply comments/briefs	August 15, 2007
En banc hearing on point of regulation in the electricity sector, including deliverer/first seller and load-based approaches	August 21, 2007
Ruling soliciting further comments on electricity sector type and point of regulation issues	November 9, 2007
Comments on electricity sector issues filed	December 3, 2007
Ruling soliciting further comments on type and point of regulation for natural gas sector	November 28, 2007
Comments on natural gas sector issues filed	December 17, 2007
Reply comments on electricity sector issues filed	December 17, 2007
Natural Gas	
Ruling requesting comment on Staff proposal regarding treatment of natural gas sector, and scheduling prehearing conference on natural gas	July 12, 2007

issues	
Comments filed	July 26, 2007
Prehearing conference on natural gas issues	August 2, 2007
(Subsequent natural gas activities are to be subsumed in other issue areas, as appropriate.)	
Reporting and Verification	
Workshop on reporting and tracking for a load-based cap for the electricity sector	April 12-13, 2007
Symposium on linking GHG-and-trade systems, and reporting issues	April 19, 2007
Ruling requesting comment on Staff proposal for a GHG reporting protocol for the electricity sector	June 12, 2007
Parties' comments and reply comments	July 2 and 10, 2007
Proposed decision with recommendations to ARB on reporting and verification of GHG emissions in electricity sector	August 15, 2007
Comments and reply comments on proposed decision	August 24 and 30, 2007
Public Utilities Commission approval of electricity reporting decision, D.07-09-017	September 6, 2007
Energy Commission approval of electricity reporting decision	September 12, 2007
Baseline Development	
Workshop on 1990 baseline, current entity-specific GHG emissions, and allocation of emission allowances in electricity sector	June 22, 2007
Staff data request to electricity retail providers for 2003-2006 emissions data	July 17, 2007
Responses due to Staff data request for electricity sector	August 1, 2007
Staff data request to natural gas entities for current emissions data	November 6, 2007
Responses due to Staff data request for natural gas sector	November 19, 2007
Emissions Reduction Measures and Annual Sector Emissions Caps	
(No public activities so far. This issue will be merged with modeling activities.)	
Flexible Compliance Mechanisms	

Symposium on flexible compliance mechanisms	April 20, 2007
Entity-specific Emission Allowance Allocation	
Workshop on 1990 baseline, current entity-specific GHG emissions, and allocation of emission allowances in electricity sector	June 22, 2007
Ruling soliciting comments and proposals for distribution of emission allowances to electricity and natural gas entities	October 15, 2007
Comments filed	October 31, 2007
Workshop on electricity allocation issues	November 5, 2007
Reply comments on emission allocation issues	November 14, 2007
Supplemental reply comments on emission allocation issues	December 7, 2007
Modeling	
Contract signed with consultant	July 6, 2007
Public meeting presenting the proposed modeling approach	September 21, 2007
Ruling soliciting comments on staff paper on emission reduction measures, consultant issues papers, and beta version of GHG calculator model	November 9, 2007
Workshop on input/assumptions, sample/initial results, and next steps	November 14, 2007

Upcoming schedule for the proceeding:

Type and Point of Regulation	
Reply comments due on natural gas sector issues	January 8, 2008
Reporting and Verification	
(Electricity sector is completed. Nothing is planned for natural gas sector.)	
Baseline Development	
Additional work to develop entity-specific baselines may be necessary after interim decision.	
Emissions Reduction Measures and Annual Sector Emissions Caps	
(This issue will be merged with modeling activities.)	
Flexible Compliance Mechanisms	
Staff straw proposal recommending flexible	March 2008

compliance mechanisms for electricity and natural gas sectors	
Comments due	Early April 2008
Reply comments due	Late April 2008
Possible public workshops	April 2008
Entity-specific Emission Allowance Allocation	
Additional work to develop proposals for allowance allocation may be necessary after interim decision; allocation issues also will be explored through modeling activities.	
Modeling	
Comments due on emission reduction measures and modeling approach	January 4, 2008
Reply comments due on emission reduction measures and modeling approach	January 18, 2008
Additional workshops on modeling approach	Early Spring 2008
Stage 2 of modeling work including entity-specific analysis commences	April 2008
ADOPTING FINAL POLICIES	
Interim Decision	
Proposed decision on basic GHG regulatory framework for electricity and natural gas sectors (chiefly type and point of regulation and some allowance allocation-related issues)	Late January or early February 2008
Comments and reply comments due	February 2008
Public Utilities Commission and Energy Commission adopt interim decision	February – March 2008
Additional Work	
Workshops, comments, additional modeling, hearings, if needed, to refine concepts in interim decision and address additional issues	March - July 2008
Final Decision	
Proposed decision containing recommendations to ARB on GHG regulatory framework for electricity and natural gas sectors	July 2008
Comments and reply comments	August 2008
Public Utilities Commission and Energy Commission adopt decision with	Late August or early September 2008

recommendations to ARB on GHG regulatory framework	
--	--

Section 1701.5 of the Public Utilities Code provides that, in a quasi-legislative proceeding, the issues raised in the scoping memo are to be resolved within 18 months of the date the scoping memo is issued, unless the Public Utilities Commission issues an order extending the deadline (Section 1701.5(a)) or the scoping memo specifies a later resolution date (Section 1701.5(b)). Due to the complexity of this proceeding and the need for extensive consultations with ARB and other entities, the Phase 2 scoping memo stated that Phase 2 should be completed within 24 months of the date of the scoping memo. In light of the later modifications to the OIR and consistent with D.07-05-059,¹⁰ the Public Utilities Commission's intention is to complete this rulemaking within 24 months of today's ruling amending the scoping memo to incorporate natural gas issues, rather than the 18 months specified in Section 1701.5.

IT IS RULED that:

1. The scope of consideration in Phase 2 of Rulemaking 06-04-009 is as set forth in the February 2, 2007 scoping memo, as modified by this ruling. As well as issues previously included, the scope of Phase 2 includes the following issues:
 - a. Development of guidelines and recommendations to Air Resources Board (ARB) regarding a statewide greenhouse gas (GHG) emissions program as it pertains to the electricity and natural gas sectors.

¹⁰ D.07-05-059, *mimeo.* at 11.

- b. The regulation of GHG emissions associated with (i) the transmission, storage, and distribution of natural gas, and (ii) customer use of natural gas.
 - c. Issues raised by and alternatives considered in the June 30, 2007 Market Advisory Committee report entitled, "Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California."
 - d. Impacts of the GHG emissions program on community choice aggregators, electric service providers, electrical corporations, other investor-owned utilities (IOUs), and publicly owned utilities (POUs).
 - e. Whether and the manner in which GHG regulations should apply to electric service providers, community choice aggregators, IOUs, and POUs in California.
 - f. The treatment of distributed generation and combined heat and power (cogeneration) facilities in GHG emission policies.
 - g. Interactions between a GHG emissions program and programs and policies regarding energy efficiency, renewable resources, distributed generation, combined heat and power resources, and low-emission vehicles, and any other policies or programs affecting GHG emissions from the electricity and natural gas sectors.
 - h. The following elements related to design of a GHG emissions program: type and point of regulation, reporting requirements, baseline development, emissions reductions measures and annual emissions caps, flexible compliance mechanisms, entity-specific allowance allocation, and modeling to support policy design and evaluation of costs.
2. The schedule of Phase 2 of this rulemaking is as set forth in this ruling.
3. Because of the extensive scope of Phase 2 and the need for consultations with the Energy Commission, ARB, and other entities, and because development of guidelines and recommendations to ARB regarding GHG regulations pertaining to the electricity and natural gas sectors is dependent on a number of intermediate evaluations, this proceeding will remain open beyond the 18-month

period specified in Pub. Util. Code § 1701.5. It is the Public Utilities Commission's intention to complete this portion of the rulemaking within 24 months of the date of this ruling amending the Phase 2 scoping memo.

4. While this scoping memo provides guidance regarding the manner in which each identified issue will be considered, the assigned Administrative Law Judge (ALJs) may make any revisions or provide further direction regarding the manner in which the issues are to be addressed, as necessary for a full and complete development of the record.

5. The assigned ALJs may make any revisions to the schedule necessary for the fair and efficient management of the proceeding.

6. The ALJs may set issues for evidentiary hearing as needed.

7. All notices, comments, and other submittals required by this ruling or subsequent rulings shall be formally filed with the Public Utilities Commission and served on the service list in this proceeding pursuant to the Electronic Service Protocols attached to the OIR and consistent with Rules 1.9 and 1.10. Hard copies shall also be served on the assigned ALJs and the assigned Commissioner, pursuant to those protocols.

8. This proceeding is categorized as quasi-legislative. Accordingly, pursuant to Rule 8.2(a), *ex parte* communications are allowed without restriction or reporting requirement in all phases of this rulemaking.

Dated December 21, 2007, at San Francisco, California.

/s/ MICHAEL R. PEEVEY
Michael R. Peevey
Assigned Commissioner

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated December 21, 2007, at San Francisco, California.

/s/ ROSCELLA GONZALEZ
Roscella Gonzalez